

[REDACTED]
[REDACTED]
[REDACTED]
AUG 1 1989

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of tax exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the laws of the State of [REDACTED] on [REDACTED].

The purposes of the organization are to provide maintenance, preservation, and architectural control of the resident lots and common areas within the [REDACTED]. Other purposes are to promote the health, safety, and welfare of the residents within the [REDACTED] and to administer and enforce the covenants and restrictions contained in the Declaration of Covenants, Conditions, and Restrictions by [REDACTED].

The activities of the Association include insuring, maintaining, and beautifying the common areas for the common use and enjoyment of the members of the Association, maintaining the personal property of the owners in the subdivision, providing safety measures for the subdivision and promoting the social well-being of the Association.

Your income is derived from the yearly assessments from every homeowner.

Expenses consist of insurance, legal fees, and miscellaneous supplies.

Section 501(c)(4) of the Code provides for the recognition of civic leagues, social welfare organizations, or other organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	2/15/89	4/5/89	8/1/89				

Section 1.501(c)(4)-1(a)(2)(i) of the income tax regulations provide that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, published in Cumulative Bulletin 1972-1, page 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for the use of residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by municipal governments, the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, published in Cumulative Bulletin 1974-1 on page 131 modified Revenue Ruling 72-102 by stating guidelines under which a homeowners association could qualify for exemption under section 501(c)(4) of the Code. One guideline is that a homeowners association must serve a community which bears a reasonable recognizable relationship to an area ordinarily identified as governmental in order to qualify under Code section 501(c)(4).

This ruling reads in part: "A community within the meaning of section 501(c)(4) and the Regulations is not simply an aggregation of homeowners bound together in a structural unit formed as an integral part of a plan for the development of a real estate division and the sale of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof."

The area served by your activities consists of a structural unit formed as an integral part of a residential housing development plan. Such an area does not constitute a "community" within the meaning of Code section 501(c)(4) and the underlying Regulations.

[REDACTED]

Revenue Ruling 74-99 also states that a homeowners association must not conduct activities directed to the exterior maintenance of private residences and that the common areas or facilities must be for the use and enjoyment of the public."

Your "Declaration of Covenants, Conditions, and Restrictions" has procedures for maintaining the private residential lots and common areas of your organization.

The common areas, as stated in your Covenants, are the private property of the association and ownership is divided equally among the homeowners.


Revenue Ruling 74-99 states that Revenue Ruling 72-102 "...was intended only to approve ownership and maintenance by a homeowners association of such areas as roadways and parklanes, sidewalks and street lights, access to, or the use and the enjoyment of which is intended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners association...".

Your common areas are not open for the use and enjoyment of the general public.

One of the purposes of Revenue Ruling 74-99 is to preclude recognition of exemption of homeowners associations that serve a private rather than a public interest.


Based on the information submitted and the applicable law cited above, we conclude that you are primarily organized and operated to provide services for the personal benefit of your members and not primarily for promoting in some way the common good and general welfare of the people of the community. Therefore, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

In accordance with this determination, you are required to file form 1120 for Federal income tax purposes. Your attention is called to Code section 528, which provides certain procedures by which qualifying homeowners associations may elect to be treated as a tax exempt organization. The enclosed Publication 588 describes the requirements for exemption under section 528.



If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,



District Director

Enclosures: Publication 892
Publication 588